

Att'y Dkt. No. US-1410

U.S. App. No: 09/841,609

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks.

The above amendments are fully supported by the specification and therefore do not constitute new matter. More specifically, support can be found in original claim 8, page 13, line 15 to page 15, line 8, and the examples.

Applicants greatly appreciate the Examiner's withdrawal of most of the outstanding rejections in the final rejection issued November 18, 2004.

Telephone Interview

In a telephone interview with the Examiner on February 7, 2005, the Examiner suggested that method claims using the originally claimed bacterium to produce amino acids would most likely be allowable if submitted in an RCE. The Examiner stated that she would consider these claims if filed as an RCE, despite their different class status from that which was originally elected. Applicants have taken the Examiner's suggestion and present method claims herein. Applicants greatly appreciate the Examiner's time and helpful suggestions during the interview.

Information Disclosure Statement

Applicants would like to draw the Examiner's attention to an Information Disclosure Statement that was filed on the same day that the previous final rejection was mailed, October 1, 2003. Applicants respectfully request consideration of this IDS and return of the initialed PTO-1449, as the required fee under 37 CFR 1.17(p) was submitted. This is evidenced by the date-stamped receipt. A copy of the IDS, with the cited references and the stamped postcard are submitted herewith for the Examiner's convenience.

The rejection of claims 4 and 7 under 35 USC §102

In paragraph 8 of the Final Rejection issued November 18, 2004, the Examiner has rejected claims 4 and 7 under 35 USC §102 over Bockmann et al. for the allegedly inherent teaching of accumulation of amino acids and presence of a permease, invertase, and fructokinase. Applicants have amended the claims to recite a method of producing an amino acid using the bacterium recited in original claim 4. Specifically, applicants recite a method of using a bacterium which includes the invertase, permease, and fructokinase csc genes originating from *E. coli* EC3132 or W3350csc to produce amino acids. Applicants assert that the claims as amended are free of the prior art for the following reasons.

Bockmann et al. fails to teach or suggest using the bacterium taught in the reference to produce amino acids. In fact, Bockmann et al. does not even recognize such a use for the bacterium reported by the reference. As stated previously, applicants maintain that the JM109 of Bockman et al. does not cause accumulation of amino acids regardless of the introduction of csc genes. Nevertheless, Bockman *et al.* does not inherently or explicitly teach a method of amino acid production.

Therefore, claims 4 and 7 are free of the teachings of Bockmann *et al.*. Applicants respectfully request that the rejection be withdrawn.

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Conclusion

For at least the foregoing reasons, Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Kerr believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, she is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the undersigned respectfully requests that such fees be charged to deposit account 50-3077.

Respectfully submitted,

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